IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Pal Singh v. District Judge, Sriganganagar & Ors.

S.B.CIVIL WRIT PETITION NO.387/1999
under Article 226 of the Constitution of India.

Date of Order : 15th July, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. J.L.Purohit, for the petitioner.
Mr. B.L.Tiwari, Addl.Govt.Advocate.

BY THE COURT :

Respondent No.2 Shri Hakam Singh preferred an application under Section 6 of the Rajasthan Relief of Agricultural Indebtness Act, 1957 (hereinafter referred to as "the Act of 1957") before Debt Relief Court (Civil Judge), Sriganganagar on 23.5.1989 alleging therein that Shri Pal Singh (petitioner) took a loan of Rs.14,000/- from him on 23.5.1986 with interest @ Rs.2/- per 100 per month. Shri Hakam Singh

also contended in the application that a pronote in this regard was also executed and a receipt of the amount accepted was also given by the petitioner. The amount said to be taken on loan was not repaid by the petitioner though having sufficient means to do so, therefore, a decree for recovery of debt with interest was claimed.

The petitioner by way of filing written statement denied the fact about borrowing loan from Shri Hakam Singh. It was contended by the petitioner before Debt Relief Court, Sriganganagar that he mortgaged his agricultural land in favour of respondent No.2 Shri Hakam Singh and a sum of Rs.14,000/- was taken by him as mortgage money. The pronote was also executed to that extent. The petitioner further contended that the respondent No.2 cultivated the lands for many years and taken the crops out of these lands and as such he was not liable to make payment of any amount as clazimed by the respondent No.2.

On basis of pleadings of the parties the trial court framed three issues as under:-

> "{1} आया प्रार्थी हाकमसिंह से अप्रार्थी पालसिंह ने दिनांक 23.5.86 को 14,000 रूपये का कर्ज उधार लिया और इसके लिये प्रोनोट एवं रसीद का निष्पादन किया ?

{2} आया प्रार्थी, अप्रार्थी से 14,000 रूपये की राशि पर 2 प्रतिशत माहवार की दर से ब्याज पाने का हकदार है ?

{3} अनुतोष ?"

The trial court by judgment dated 4.7.1992 accepted the application preferred by the respondent No.2 under Section 6 of the Act of 1957 and passed a decree against the petitioner for amount of Rs.17,780/-. The trial court looking to the facts and circumstances of the case ordered for payment of decreetal amount in easy instalments.

The petitioner being aggrieved by judgment and decree dated 4.7.1992 preferred a revision petition before the District Judge, Sriganganagar which too came to be rejected by judgment dated 3.7.1998. Hence present petition for writ is filed by the petitioner giving challenge to the judgment dated 3.7.1998 passed by District Judge, Sriganganagar and judgment and decree dated 4.7.1992 passed by Debt Relief Court, Sriganganagar.

Nobody has put in appearance on behalf of respondent No.2 Shri Hakam Singh despite service.

I have heard counsel for the petitioner.

It is contended by counsel for the petitioner that Debt Relief Court erred while holding that the petitioner borrowed a loan from respondent No.2 in a tune of Rs.14,000/- though the same was mortgage money in view of the fact that 25 bighas of land was mortgaged with the respondent No.2 by the petitioner. The land in question was utilised by the respondent No.2 and, therefore, the petitioner was not at all liable to make the payment as claimed by the respondent No.2. It is also contended by the counsel for the petitioner that the revisional court too failed to appreciate this factual position.

I have scanned the judgments passed by the courts below thoroughly. The courts below after considering all the evidence available on record gave a specific finding to the effect that the petitioner borrowed a sum of Rs.14,000/- against the loan from respondent No.2 with interest @ Rs.2/- per 100 per month and the same was not repaid by him. The courts below also gave specific finding that no evidence was placed by the present petitioner to substantiate the statements made in written. The findings given by the courts below as affirmed by the revisional court are finding of facts and are out come of the effective appreciation of evidence available. Such finding of fact is not open for interference by this Court exercising powers under Article 227 of the Constitution of India.

Accordingly the writ petition is devoid of merit and, therefore, the same deserves to be dismissed. The petition, therefore, is dismissed accordingly.

(GOVIND MATHUR),J.

kkm/ps.